

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matters of	§	
	§	
911 Governance and Accountability	§	PS Docket No. 14-193
	§	
Improving 911 Reliability	§	PS Docket No. 13-75

REPLY COMMENTS OF TEXAS 9-1-1 ENTITIES

The Texas 9-1-1 Alliance,¹ the Texas Commission on State Emergency Communications,² and the Municipal Emergency Communication Districts Association³ (collectively, the “Texas 9-1-1 Entities”) respectfully submit the following brief reply comments in the Federal Communication Commission’s (the “Commission’s”) above-referenced proceedings seeking to propose specific rules designed to address public safety network failures that resulted in recent multi-state 9-1-1 outages.⁴

¹ The Texas 9-1-1 Alliance is an interlocal cooperation entity composed of 25 Texas emergency communication districts with E9-1-1 service and related public safety responsibility for more than approximately 60% of the population of Texas. These emergency communication districts were created pursuant to Texas Health and Safety Code Chapter 772 and are defined under Texas Health and Safety Code Section 771.001(3)(B).

² The Texas Commission on State Emergency Communications (“CSEC”) is a state agency created pursuant to Texas Health and Safety Code Chapter 771, and by statute is the state program authority on emergency communications. CSEC oversees and administers the Texas state 9-1-1 program under which 9-1-1 service is provided in 214 of Texas’ 254 counties, covering approximately two-thirds of the geography and one-fourth of the state’s population.

³ The Municipal Emergency Communication Districts Association (“MECDA”) is an association of 26 municipal emergency communication districts, as defined under Texas Health and Safety Code § 771.001(3)(A), that are located primarily in the Dallas-Fort Worth area.

⁴ *911 Governance and Accountability; Improving 911 Reliability*, PS Docket Nos. 14-193 and 13-75, Policy Statement and Notice of Proposed Rulemaking, FCC 14-186 (rel. Nov. 21, 2014) (“NPRM”) (available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-14-186A1.pdf).

I. Brief Reply Comments

The initial comments that were filed on the NPRM express a broad spectrum of views, ranging from the position that the NPRM proposed rules are ready for immediate adoption by the Commission,⁵ to the opposite position that the NPRM proposed rules “would undermine accountability among service providers in the 911 space and create regulatory uncertainty.”⁶ One could debate at length regarding which of these two opposing views is more accurate. What is clear is that numerous stakeholders have raised sufficiently legitimate issues and concerns in the initial comments about the NPRM proposed rules, and the most appropriate path forward at the present time is to slow down the pace of this NPRM and seek additional input from the various stakeholders utilizing a Commission workshop and other collaborative approaches.

Such an approach could result in the establishment of reasonable requirements as part of all future 9-1-1 services deployments requested by the ultimate 9-1-1 authority customers and implemented by vendors, simply because they are effective, cost-justified, and sufficient to ensure the level of 9-1-1 service that the public has come to expect. The establishment of reasonable requirements would not be new to the provision of 9-1-1 service. To the contrary, legacy 9-1-1 systems were generally designed with two dedicated 9-1-1 trunks, two redundant

⁵ See, National Association of State Utility Consumer Advocates Comments at 1-2 (Mar. 9, 2015) (“The National Association of State Utility Consumer Advocates (NASUCA) agrees with and supports the Commission’s policy statement and the proposed regulations. The Commission’s factual analysis and conclusions are, again, compelling.”) (Footnote in original omitted).

⁶ Cf., Verizon Comments at ii (Mar. 23, 2015); Cf. also, AT&T Comments at 2-3, 5, and 7 (Mar. 23, 2015) (“The 911 Reliability Rules are already imposing considerable costs on Covered 911 Service Providers who are conducting new audits of their 911-related systems and preparing to certify to compliance with the new rules. The proposed expansion of these rules would add significant new work and costs on providers that are already racing to meet the original deadline for filing the initial certificate—a certificate that would attest to only substantial compliance with those rules. The certificate of full compliance will not be due until October, 2016....The proposed expansion of the 911 Reliability Rules would directly impact existing relationships the Covered 911 Service Providers have with PSAPs and third-party vendors and subcontractors by imposing new and unforeseen costs, not presently addressed by existing tariffs or contracts....the additional costs may very likely have unintended consequences, like slowing the ability of some PSAPs to migrate to NG911 or otherwise update or replace out-of-date facilities.”).

9-1-1 database management systems and two redundant connections to those systems, etc. We recognize that these legacy 9-1-1 systems were designed for older technologies, during a period of general state public utility commission rate regulation of 9-1-1 service that included provider of last resort obligations. However, it is too early in the transition to Internet Protocol ("IP") and the transition to a fully competitive 9-1-1 service marketplace for the Commission, state public utility commissions, 9-1-1 authorities, and other stakeholders to abandon expectations that vendors will willingly make mainstream IP technologies available for 9-1-1 service via the competitive marketplace.

In this regard, whether through Commission rules, adoption of best practices, or voluntary commitments, the suggested implementation of "Public Safety Grade 9-1-1" requirements offered in the Fairfax County, Virginia comments present reasonable issues for the Commission to explore further as soon as possible.⁷ Similarly, the TeleCommunication Systems, Inc. ("TCS") recommendations appear reasonable with regard to system service providers developing comprehensive business continuity plans and requiring, as an integral part of an individual business continuity plan, that there be disaster recovery processes using assured

⁷ See, Fairfax County, Virginia Comments at 4 (Apr. 7, 2015) ("The Commission could assist PSAPs by facilitating the creation of a definition for Public Safety Grade ('PSG') 9-1-1. The Commission should coordinate and consult with NENA, APCO, NPSTC, Department of Homeland Security ('DHS') and other industry associations to define and publish a document that articulates PSG 9-1-1 standards using the industry developed existing standards and best practices as input to the consultation process. The Commission is a very capable clearinghouse for industry best practice information and a voice on standards adoption. The Commission, as a Federal agency, has the resources to facilitate the focused discussion and the provision of specific subject matter expertise (such as cyber security) in a more efficient manner than most states acting independently and it should utilize these resources to facilitate the creation and publication of the PSG 9-1-1 standards document. This PSG 9-1-1 document could be published by one of the industry standard setting associations and would set forth, in one place, a consolidated view of those 'best practices' and the associated standards that are recognized across the industry. Service providers could then self-certify that they meet the PSG 9-1-1 requirements, which would provide PSAPs with sufficient knowledge to ensure that the service provider engages in the appropriate best practices").

backup data, practice scenario planning exercises, and participation in continuous training.⁸ The Commission's recent consent decrees with CenturyLink and Intrado, which included requirements for written operating procedures, compliance processes, a compliance manual, and a compliance training program, also appear to provide the elements of a reasonable framework.⁹ Accordingly, the Texas 9-1-1 Entities respectfully request that the Commission exhaust such potential collaborative alternatives, including setting up a Commission workshop in the very near future on how to best to facilitate implementation of "Public Safety Grade 9-1-1" requirements and the expectations discussed above, at the earliest possible time before further considering adoption of any final rules in these proceedings.

So as not to divert focus from the primary issues discussed above, the Texas 9-1-1 Entities will only briefly reply to one assertion made by CenturyLink and another assertion made by Intrado in their initial comments. CenturyLink suggests that because of the Commission's proposed rules, primary contractors should not be responsible for the actions of their

⁸ TCS Comments at 14-15 (Mar. 23, 2015) ("TCS recommends a practiced and well-documented business continuity plan be in place for a self-administered approach to solving these problems, including the establishment of multiprovider conference bridge administration and information exchange protocols such that all relevant stakeholders are equally abreast of and contributive to the resiliency and remediation of the end-to-end 9-1-1 system. Such a multiprovider communication protocol would facilitate transfer of information in real time and provide a venue for timely analysis, planning, and resolution. Such a protocol also would provide a basis for a clear and coalesced root cause analysis, post impairment, across all stakeholder entities....The Commission could consider the creation of a collaboration process, based on business continuity planning agreements, which would encourage vendors and service providers to communicate issues, suggest solutions, and ultimately reduce the time needed to resolve problems....TCS recommends that system service providers develop a comprehensive business continuity plan to ensure resiliency, incorporating operational best practices and following design areas of improvement that promote the deployment and ongoing practices of maintaining highly available, fault-tolerant, self-healing, redundant, diverse, and active-active systems and networks. TCS also recommends that, as an integral part of an individual business continuity plan, 9-1-1 system service providers develop disaster recovery processes using assured backup data, practice scenario planning exercises, and participate in continuous training.") (Footnotes in original omitted.).

⁹ See, e.g., *In the Matter of CenturyLink, Inc.*, File No.: EB-SED-14-00017187, Order and Consent Decree at 4-6 (rel. Apr. 6, 2015) (available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db0406/DA-15-406A1.pdf) ("CenturyLink Order and Consent Decree")

subcontractors.¹⁰ CenturyLink's position is not consistent with Commission precedent, reaffirmed most recently in the CenturyLink Order and Consent Decree, that primary service providers should also have responsibility for the actions of the subcontractors they utilize.¹¹

In its comments, Intrado questions whether 9-1-1 authority customers have an accountability "conflict of interest" and lesser expectations on the level of 9-1-1 service to be required when they self-provision aspects of their 9-1-1 service.¹² In fact, the opposite is true. The determination by a 9-1-1 governmental entity with statutory or public safety police power responsibility that the best result for the public is to self-provision certain aspects of 9-1-1 service in certain instances does not create an accountability conflict of interest or any lesser expectation on the level of 9-1-1 service to be required. If anything, expectations are heightened when a 9-1-1 entity decides to take on the responsibility to self-provide instead of relying on a vendor to provide any aspect of the 9-1-1 service.

¹⁰ CenturyLink Comments at 5-6 (Mar. 23, 2015) ("CenturyLink supports a limited expansion of the definition of Covered 911 Service Providers to include 911, E911 and NG911 capabilities such as call routing, ALI and ANI or their functional equivalent....By expanding this term to increase the direct accountability of individual providers, it would then be unnecessary and improper for the FCC to hold a Covered 911 Service Provider vicariously liable for the acts or omissions of another Covered 911 Service Provider.").

¹¹ See CenturyLink Order and Consent Decree at 3 ("CenturyLink fully acknowledges that it is responsible for complying with applicable Commission rules regardless of any alleged failures by its subcontractors."); see also *Triad Broadcasting Company, Inc.*, Memorandum Opinion and Order, 96 FCC 2d 1235, 1244, ¶ 21 (1984) ("the Commission has consistently refused to excuse licensees from forfeiture penalties where actions of employees or independent contractors result in violations."); cf. Verizon Comments at ii (Mar. 23, 2015) ("Applying the rules to entities that do not directly provide services to PSAPs, such as subcontractors and agents, would be confusing and undermine accountability. Rather, a prime contractor directly serving a PSAP should be responsible for compliance with all Commission rules and certifications, regardless of other parties' roles or responsibilities as a subcontractor.").

¹² Intrado Comments at 42 and footnote 90 ("while some agencies, in addition to governing 911, want to take on the role of 911 service provider....As a separate issue, this arrangement also sets up a conflict of interest: the agency responsible to the public for procuring and overseeing 911 service is also the entity providing the service itself which gives the oversight agency an incentive to not hold itself responsible if and when it fails to appropriately deliver the service — or won't naturally hold itself accountable for the economics of the 'relationship' between overseer and provider.").

II. Conclusion

The Texas 9-1-1 Entities appreciate the opportunity to provide these reply comments on these important matters, and respectfully request that the Commission take action on these matters consistent with these reply comments.

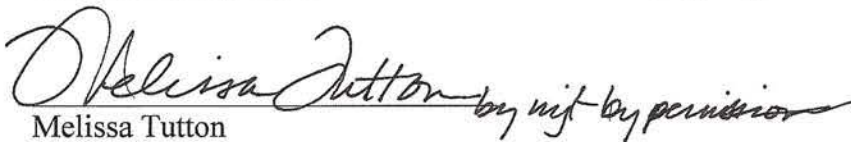
Respectfully submitted,



Michael J. Tomsu
Vinson & Elkins L.L.P.
2801 Via Fortuna, Suite 100
Austin, Texas 78746
512-542-8527
512-236-3211 (fax)
mtomsu@velaw.com
On behalf of the Texas 9-1-1 Alliance



Patrick Tyler
General Counsel
333 Guadalupe Street, Suite 2-212
Austin, Texas 78701-3942
512-305-6915
512-305-6937 (fax)
Patrick.tyler@csec.texas.gov
On behalf of the Texas Commission on State Emergency Communications



Melissa Tutton
President
On behalf of the Municipal Emergency Communication Districts Association

On the comments:
Richard A. Muscat
Bexar Metro 9-1-1 Network District

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